

Maryland Judicial Ethics Committee

Opinion Request Number: 1999-11

Date of Issue: May 11, 2000

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Recognition as Judicial Fellow

A judge has inquired of the propriety in accepting an offer from a law-related organization to be recognized as a Judicial Fellow. The organization primarily represents only plaintiffs in civil tort litigation. By accepting this offer, not only would the judge be recognized by the organization as a Judicial Fellow, but would also receive a complimentary subscription to its monthly magazine. Moreover, the judge would not be required to pay the dues required of members of the organization. We understand that the Judicial Fellow designation may be offered by the organization to any judge who “continues to serve as a judge in good standing and is of good moral character.” We do not believe the judge should accept this offer.

Canon 2(A) of the Canons of Judicial Ethics provides: “[a] judge should behave with propriety and should avoid even the appearance of impropriety. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Any potential for perceived bias that could decrease the public confidence in the impartiality of the judiciary must be avoided. Although we understand from the judge’s inquiry that the organization has changed the term of such affiliation from Judicial Member to Judicial Fellow, we believe this to be a difference without a distinction. A “Fellow” is defined as “a member of an incorporated literary, scientific, and often professional society.” Webster’s Third New International Dictionary 836 (1981). Although the judge would not be required to pay membership dues, the term “Fellow” nonetheless connotes that the judge is a member of the organization. Hence, we believe that to be recognized as a Judicial Fellow would engender the public’s perception that the judge is predisposed toward plaintiffs in civil litigation.

We also believe Canon 4 supports our view. Canon 4 provides: “a judge may engage in... activities, if doing so does not interfere with the proper performance of judicial duties, does not reflect adversely upon the judge’s impartiality, and does not detract from the dignity of the office.” We recognize that Canon 4 encourages judges to participate in organizations dedicated to improving the law. We believe that before doing so, however, a judge must first determine whether the organization is dedicated to generally improving the law rather than favoring one litigant over another. Judicial ethics scholars have commented:

An organization need not be racist or vitriolic, however, in order to give the appearance of partiality. Membership on the board of directors of a legal aid society might convey the impression that a judge was predisposed in favor of its lawyers, and membership in an “anti-shoplifting” organization or in Mothers Against Drunk Driving would call into question a judge’s ability to preside fairly over theft or drunk-driving prosecutions. Thus, judges should avoid membership in even the most praiseworthy and noncontroversial organizations if they espouse, or are dedicated to, a particular legal philosophy or position. A judge may, of course, participate in organizations with law-related purposes, so long as the groups are “non-partisan” in

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their approach and do not regularly appear in the judge's court.

Jeffrey M. Shaman et al., *Judicial Conduct and Ethics* § 9.11 (3d ed. 2000) (footnotes omitted). Consequently, because this organization represents the views of injured parties and promotes only the partisan view of plaintiffs in tort litigation, we believe the judge should reject the offer.

Our view is shared by other states that have considered this question. *See* Alaska Comm'n on Judicial Conduct, Advisory Opinion 99-4 (1999); Arizona Judicial Ethics Advisory Comm., Advisory Opinion 95-2 (1995); Arkansas Judicial Ethics Advisory Comm., Advisory Opinion 99-04 (1999); Arkansas Judicial Ethics Advisory Comm., Advisory Opinion 99-07 (1999); Florida Comm. On Standards of Conduct Governing Judges, Advisory Opinion 95-21 (1995); Georgia Judicial Qualifications Comm'n, Advisory Opinion 98 (1987); Louisiana Supreme Court Comm. on Judicial Ethics, Advisory Opinion 91 (1991).